

ASSEMBLY, No. 4714

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED NOVEMBER 26, 2018

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

SYNOPSIS

Allows utility lines necessary for certain solar energy generation facilities to cross municipally-owned preserved open space under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/4/2018)

1 AN ACT concerning certain utility lines crossing municipally-owned
2 preserved open space, and supplementing Title 13 of the Revised
3 Statutes and P.L.1999, c.152 (C.13:8C-1 et seq.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. a. Notwithstanding the provisions of section 13 of P.L.1961,
9 c.45 (C.13:8A-13), section 13 of P.L.1971, c.419 (C.13:8A-31),
10 section 13 of P.L.1975, c.155 (C.13:8A-47), or any rule or
11 regulation adopted pursuant thereto to the contrary, requiring
12 approval by the commissioner or State House Commission, utility
13 lines integral to a solar electric power generation facility approved
14 by the Board of Public Utilities pursuant to subsection s. of section
15 38 of P.L.1999, c.23 (C.48:3-87) shall not be deemed to constitute a
16 disposal or diversion of lands pursuant to section 13 of P.L.1961,
17 c.45 (C.13:8A-13), section 13 of P.L.1971, c.419 (C.13:8A-31), or
18 section 13 of P.L.1975, c.155 (C.13:8A-47), or any rule or
19 regulation adopted pursuant thereto. Such utility lines shall be
20 allowed to cross lands acquired for recreation and conservation
21 purposes by a local unit with financial assistance from the State in
22 the form of a grant or loan of Green Acres bond funds, subject to
23 the following conditions:

24 (1) the land was acquired for recreation and conservation
25 purposes by the local unit prior to the date of enactment of P.L. ,
26 c. (C.) (pending before the Legislature as this bill);

27 (2) the solar electric power generation facility will not be
28 located on such land;

29 (3) the installation of the utility lines will not interfere with the
30 use of the land for recreation and conservation purposes, as
31 determined by the local unit;

32 (4) the utility lines will be located underground, and any land or
33 vegetation disturbed by the installation of the underground lines
34 will be restored to the satisfaction of the local unit;

35 (5) the owner of the proposed solar electric power generation
36 facility provides a report to the Board of Public Utilities, the
37 commissioner, and the local unit demonstrating that there are no
38 other available lands that could be traversed in order for the solar
39 electric power generation facility to be “connected to the
40 distribution system”;

41 (6) the owner of the solar electric power generation facility
42 obtains the written approval of the local unit for the use of the land
43 for the purpose of the utility lines; and

44 (7) the owner of the solar electric power generation facility
45 provides compensation as required pursuant to the provisions of
46 section 13 of P.L.1961, c.45 (C.13:8A-13), section 13 of P.L.1971,
47 c.419 (C.13:8A-31), or section 13 of P.L.1975, c.155 (C.13:8A-47),
48 as applicable, and any rule or regulation adopted pursuant thereto.

1 b. (1) At least 60 days prior to the construction of a solar
2 electric power generation facility approved by the Board of Public
3 Utilities pursuant to subsection s. of section 38 of P.L.1999, c.23
4 (C.48:3-87), the owner of the facility shall notify the local unit and
5 the commissioner of the proposed construction and the need for
6 utility lines to cross land acquired by a local unit for recreation and
7 conservation purposes in order for the facility to be “connected to
8 the distribution system.”

9 The notice required pursuant to this paragraph shall include: the
10 location and a description, including photographs, of the lands
11 where the solar electric power generation facility is proposed and
12 the lands to be crossed by the utility lines; and documentation
13 demonstrating that the construction complies with the conditions set
14 forth in subsection a. of this section.

15 (2) If the local unit finds that the proposed construction and the
16 associated utility lines do not comply with the conditions set forth
17 in subsection a. of this section, the local unit shall notify, in writing,
18 the Board of Public Utilities, the commissioner, and the owner of
19 the solar electric power generation facility of this finding and the
20 reasoning therefor. The construction of the solar electric power
21 generation facility and associated utility lines shall not proceed until
22 the concerns of the local unit have been satisfied and the project
23 complies with the conditions set forth in subsection a. of this
24 section.

25 c. As used in this section:

26 “Commissioner” means the Commissioner of Environmental
27 Protection.

28 “Connected to the distribution system” means the same as that
29 term is defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51).

30 “Green Acres bond funds” means proceeds from the sale of
31 bonds pursuant to: P.L.1961, c.46; P.L.1971, c.165; P.L.1974,
32 c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265; P.L.1989,
33 c.183; P.L.1992, c.88; P.L.1995, c.204; P.L.2007, c.119; or
34 P.L.2009, c.117, for the purpose of providing State grants or loans
35 to assist local units to meet the cost of acquiring or developing
36 lands for recreation and conservation purposes.

37 “Land” or “lands” means real property, including improvements
38 thereof or thereon, rights-of-way, water, lakes, riparian and other
39 rights, easements, privileges and all other rights or interests of any
40 kind or description in, relating to, or connected with real property.

41 “Local unit” means the same as that term is defined pursuant to
42 section 3 of P.L.1961, c.45 (C.13:8A-3), section 3 of P.L.1971,
43 c.419 (C.13:8A-21), or section 3 of P.L.1975, c.155 (C.13:8A-37).

44 “Recreation and conservation purposes” means the same as that
45 term is defined pursuant to section 3 of P.L.1961, c.45 (C.13:8A-3),
46 section 3 of P.L.1971, c.419 (C.13:8A-21), or section 3 of P.L.1975,
47 c.155 (C.13:8A-37).

1 2. a. Notwithstanding the provisions of sections 32 and 33 of
2 the “Garden State Preservation Trust Act,” P.L.1999, c.152
3 (C.13:8C-32 and C.13:8C-33), or any rule or regulation adopted
4 pursuant thereto to the contrary, utility lines integral to a solar
5 electric power generation facility approved by the Board of Public
6 Utilities pursuant to subsection s. of section 38 of P.L.1999, c.23
7 (C.48:3-87) shall not be deemed to constitute a disposal or
8 diversion of those lands pursuant to sections 32 and 33 of the
9 “Garden State Preservation Trust Act,” P.L.1999, c.152 (C.13:8C-
10 32 and C.13:8C-33), or any rule or regulation adopted pursuant
11 thereto to. Such utility lines shall be allowed to cross land on lands
12 acquired, prior to the date of enactment of this act, by the local
13 government unit for recreation and conservation purposes using
14 constitutionally dedicated moneys in whole or in part, or lands that
15 were neither acquired or developed for recreation and conservation
16 purposes by the local government unit with financial assistance
17 from the State for those purposes but which lands have been
18 included in an inventory of lands prepared for the purposes of
19 section 32 of P.L.1999, c.152 (C.13:8C-32), subject to the following
20 conditions:

21 (1) the land was acquired for recreation and conservation
22 purposes by the local unit prior to the date of enactment of P.L. ,
23 c. (C.) (pending before the Legislature as this bill);

24 (2) the solar electric power generation facility will not be
25 located on such land;

26 (3) the installation of the utility lines will not interfere with the
27 use of the land for recreation and conservation purposes, as
28 determined by the local unit;

29 (4) the utility lines will be located underground, and any land or
30 vegetation disturbed by the installation of the underground lines
31 will be restored to the satisfaction of the local unit;

32 (5) the owner of the proposed solar electric power generation
33 facility provides a report to the Board of Public Utilities, the
34 commissioner, and the local unit demonstrating that there are no
35 other available lands that could be traversed in order for the solar
36 electric power generation facility to be “connected to the
37 distribution system”;

38 (6) the owner of the solar electric power generation facility
39 obtains the written approval of the local unit for the use of the land
40 for the purpose of the utility lines; and

41 (7) the owner of the solar electric power generation facility
42 provides compensation as required pursuant to the provisions of
43 section 32 of P.L.1999, c.152 (C.13:8C-32) and any rule or
44 regulation adopted pursuant thereto.

45 b. (1) At least 60 days prior to the construction of a solar
46 electric power generation facility approved by the Board of Public
47 Utilities pursuant to subsection s. of section 38 of P.L.1999, c.23
48 (C.48:3-87), the owner of the facility shall notify the local unit and

1 the commissioner of the proposed construction and the need for
2 utility lines to cross land acquired by a local unit for recreation and
3 conservation purposes in order for the facility to be “connected to
4 the distribution system.”

5 The notice required pursuant to this paragraph shall include: the
6 location and a description, including photographs, of the lands
7 where the solar electric power generation facility is proposed and
8 the lands to be crossed by the utility lines; and documentation
9 demonstrating that the construction complies with the conditions set
10 forth in subsection a. of this section.

11 (2) If the local unit finds that the proposed construction and the
12 associated utility lines do not comply with the conditions set forth
13 in subsection a. of this section, the local unit shall notify, in writing,
14 the Board of Public Utilities, the commissioner, and the owner of
15 the solar electric power generation facility of this finding and the
16 reasoning therefor. The construction of the solar electric power
17 generation facility and associated utility lines shall not proceed until
18 the concerns of the local unit have been satisfied and the project
19 complies with the conditions set forth in subsection a. of this
20 section.

21 c. As used in this section:

22 “Connected to the distribution system” means the same as that
23 term is defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51).

24
25 3. This act shall take effect immediately.
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28 STATEMENT

29
30 This bill would allow the utility lines associated with certain
31 solar electric power generation facilities to cross municipally-
32 owned preserved open space subject to certain conditions. The bill
33 contains two parallel sections to supplement (1) the statutes
34 concerning lands acquired for recreation and conservation purposes
35 by a local unit with financial assistance from the State in the form
36 of a grant or loan of Green Acres bond funds, and (2) the “Garden
37 State Preservation Trust Act,” P.L.1999, c.152 (C.13:8C-1 et seq.).

38 The bill provides that utility lines integral to a solar electric
39 power generation facility approved by the Board of Public Utilities
40 pursuant to subsection s. of section 38 of P.L.1999, c.23 (C.48:3-
41 87) would not be deemed to constitute a disposal or diversion of
42 lands preserved for recreation and conservation purposes, provided
43 that: (1) the land was acquired for recreation and conservation
44 purposes by the local unit prior to the date the bill is enacted into
45 law; (2) the solar electric power generation facility will not be
46 located on such land; (3) the installation of the utility lines will not
47 interfere with the use of the land for recreation and conservation
48 purposes, as determined by the local unit; (4) the utility lines will be

1 located underground, and any land and vegetation disturbed by the
2 installation of the underground lines will be restored to the
3 satisfaction of the local unit; (5) the owner of the proposed solar
4 electric power generation facility provides a report to the Board of
5 Public Utilities, the commissioner, and the local unit demonstrating
6 that there are no other available lands that could be traversed for the
7 solar electric power generation facility to be “connected to the
8 distribution system”; (6) the owner of the solar electric power
9 generation facility obtains the written approval of the local unit for
10 the use of the land for the purpose of the utility lines, and (7) the
11 owner of the solar electric power generation facility provides
12 compensation for the use of the municipally-owned preserved open
13 space as required pursuant to law.

14 Prior to the installation of the solar electric power generation
15 facility and the utility lines across the municipally-owned preserved
16 open space, the owner of the facility would be required to notify the
17 local unit and the commissioner of the proposed construction and
18 the need for utility lines to cross municipally-owned preserved open
19 space in order for the facility to be “connected to the distribution
20 system.”

21 The notice would include: the location and a description,
22 including photographs, of the lands where the solar electric power
23 generation facility is proposed and the lands to be crossed by the
24 utility lines; and documentation demonstrating that the construction
25 complies with the conditions set forth in the bill. If the local unit
26 finds that the proposed construction and the associated utility lines
27 does not comply with the conditions set forth in the bill, the local
28 unit would notify, in writing, the Board of Public Utilities, the
29 commissioner, and the owner of the solar electric power generation
30 facility of this finding and the reasoning therefor. The construction
31 of the solar electric power generation facility and associated utility
32 lines could not proceed until the concerns of the local unit have
33 been satisfied and the project complies with the conditions set forth
34 in the bill.